

## OPAL Country Reports

# The Dutch Parliament and EU Affairs

*Anna-Lena Högenauer, Postdoctoral Researcher, Maastricht University*

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# OPAL Country Report on the Dutch Parliament<sup>1</sup>

Anna-Lena Högenauer, Postdoctoral Researcher, Maastricht University

<b>I. General Position of Parliament in the Constitutional Balance of the Member State: Constitutional and institutional factors</b>	
This section looks at the role of Parliament in the political system, to help us understand the relative power position of the legislature.	
1.1	What is the type of government in the political system of your member state? (i.e. parliamentary or semi-presidential)
	Parliamentary
1.2	Is it a uni- or bicameral Parliament? If bicameral, is one house dominant or are both equally strong? Please briefly explain.
	Bicameral. The Tweede Kamer is dominant.  While both chambers are involved in law-making, the Tweede Kamer has the right of initiative and amendment, whereas the Eerste Kamer can only accept or reject the proposal. Also, in practice, the Eerste Kamer only meets one day per week, which limits the extent to which it can exercise its functions. Its members are thus part-timers. The Eerste Kamer does not ask oral questions and written questions are used less frequently than in the Tweede Kamer. <sup>2</sup>
1.3	Is the state federal, decentralized or unitary? If applicable, is it a form of asymmetrical federalism?
	The Netherlands are somewhat decentralized. On the mainland, there are twelve provinces with regional parliaments. These are further subdivided into municipalities. A certain degree of asymmetry stems from its colonial history. Of the Netherlands Antilles Curacao and Sint Maarten have a status apart (autonomy) whereas Bonaire, Sint Eustatius and Saba are integrated into the Netherlands as special municipalities.
1.4	Briefly describe the electoral system, if applicable, for each chamber.
	Tweede Kamer: Elections are held every 4 years. The procedure is laid down in the Elections Act (Kieswet). They are direct elections, according to a proportional system, with open party lists. This means that voters can vote for parties or for candidates from the party lists. Candidates obtaining a number of votes exceeding 25% of the electoral quota are sure of a seat in Parliament, provided that sufficient seats have been awarded to their party. The electoral quota is the number of votes needed to gain one seat in Parliament. <sup>3</sup>  Eerste Kamer: The Eerste Kamer is elected through indirect elections every 4 years, within three months after the election of the provincial councils (regional parliaments). The members of the provincial parliaments vote in the elections for the Eerste Kamer in a system based on open

<sup>1</sup> This country report provides some basic data that has been collected in the context of the research for a chapter to be published in C. Hefftl, C. Neuhold, O. Rozenberg, J. Smith & W. Wessels (Eds.). (forthcoming in 2014). *The Palgrave Handbook of National Parliaments and the European Union*. London: Palgrave, Macmillan.

<sup>2</sup> Cf. [http://www.eerstekamer.nl/begrip/english\\_2#p1](http://www.eerstekamer.nl/begrip/english_2#p1)

<sup>3</sup> <http://www.tweedekamer.nl/hoewerkt/het/verkiezingen/en/kabinetsformatie/index.jsp> - this website is also available in English.

	party lists. The votes of the members of the provincial parliaments are weighted differently taking into account the population of the province they represent. There are usually no election campaigns, as the elections are indirect. <sup>4</sup>
1.5	What (f)actors can prevent the parliament agreeing on EU legislation and/or treaty reform? (e.g. a constitutional court, or public referenda on questions of EU integration)
	<p>In principle, the parliament is responsible for the ratification of European treaties. There is no constitutional court that could challenge the decision of parliament.</p> <p>The Dutch Constitution does not foresee referenda. However, the government, parliament or regional and local executives and assemblies sometimes opt for consultative referenda. In practice, this happens mostly on the regional and local level. On the national level the referendum on the European Constitutional Treaty was the first referendum in 200 years.<sup>5</sup> As the referenda have no constitutional basis, the outcome of referenda is only politically binding.</p>

## 2. General Position of Parliament in the Constitutional Balance of the Member State: Political Factors

This section is about the basic political factors which might influence parliament's strength in relation to the government.

2.1	What is the type of government after the most recent elections e.g. single party, minority, coalition, oversized coalition government?		
	Before the elections in September 2012, the government consisted of a minority coalition (CDA, VVD). The new government consists of a coalition of the VVD and PvdA and holds a majority in the Tweede Kamer, but not in the Eerste Kamer.		
2.2	When were the most recent general elections and what were the results? Could you please give a short list of the parliamentary groups, their no. of seats in parliament and ideological position?		
	Latest election in the LOWER HOUSE:	12 September 2012	
	Name of the party	No. and percentage of seats in parliament	Ideological position (e.g. Communist, left liberal, socialist, liberal, right liberal, conservative, christian democrat, extreme right, ethnic minority or regionalist party)
	Volkspartij voor Vrijheid en Democratie (VVD)	41 (27,33%)	Conservative, liberal
	Partij van de Arbeid (PvdA)	38 (25,33%)	Social-democrat
	Christen Democratisch	13 (8,67%)	Christian-democrat

<sup>4</sup> [http://www.eerstekamer.nl/begrip/english\\_2#pi](http://www.eerstekamer.nl/begrip/english_2#pi), [http://www.eerstekamer.nl/begrip/het\\_lidmaatschap\\_van\\_de\\_eerste](http://www.eerstekamer.nl/begrip/het_lidmaatschap_van_de_eerste), also <http://electionguide.org/country.php?ID=152>.

<sup>5</sup> <http://www.europa-nu.nl/id/vh8lnhrskyn/referendum>, <http://www.referendumplatform.nl/224>

	Appel (CDA)		
	Partij voor de Vrijheid (PVV)	15 (10%)	Conservative, anti-European
	Socialistische Partij (PS)	15 (10%)	Socialist
	Democraten 66 (D66)	12 (8%)	Social-liberal, for radical democracy.
	GroenLinks	4 (2,67%)	Green, left-wing
	Christen Unie (CU)	5 (3,33%)	Christian-social, conservative
	Staatkundig Gereformeerde Partij (SGP)	3 (2%)	Orthodox, conservative
	Partij voor de Dieren	2 (1,33%)	Animal rights, green
	50Plus	2 (1,33%)	Special issue
	Latest election in the UPPER HOUSE:	23 May 2011	
	Name of the party	No. and percentage of seats in parliament (if applicable)	Ideological position (if not mentioned above)
	Volkspartij voor Vrijheid en Democratie	16 (21,33%)	For the main parties, see above.
	Partij van de Arbeid	14 (18,67%)	
	Christen Democratisch Appel	11 (14,67%)	
	Partij Voor de Vrijheid	10 (13,33%)	
	Socialistische Partij	8 (10,67%)	
	Democraten 66	5 (6,67%)	
	GroenLinks	5 (6,67%)	
	ChristenUnie	2 (2,67%)	
	Staatkundig Gereformeerde Partij	1 (1,33%)	
	50Plus	1 (1,33%)	
	Partij voor de Dieren	1 (1,33%)	
	Onafhankelijke Senaatsfractie	1 (1,33%)	
2.3	How polarized was parliamentary debate over ratification of the Lisbon Treaty? Which		

	parliamentary party groups supported and which opposed ratification?
	There are differences between parties on EU integration, ranging from Eurosceptic to pro-European. As regards the ratification of the Lisbon Treaty, a large majority of MPs and Senators voted for the Treaty (60 v. 15 Senators and 111 v. 39 members of the House). In both Houses, only the SP, the Animal Rights Party and the PVV voted against it. <sup>6</sup>

### 3. New Provisions of the Lisbon Treaty on Direct Contact with EU Institutions

The Lisbon Treaty provides national parliaments with new opportunities for direct contact with the EU institutions. This section addresses the incorporation of the new Lisbon provisions into national law and concrete procedures. Questions 3.3 to 3.5 investigate in how far these procedures have been used.

3-1	<p>Have there been any regulations adopted by your member state to incorporate the new powers that are entrusted to the national parliaments by the Treaty of Lisbon? If so, please list the regulations in their appropriate categories:</p> <ul style="list-style-type: none"> <li>a. Constitutional provisions</li> <li>b. Legal provisions - Statutory provisions</li> <li>c. Parliamentary Standing Orders</li> <li>d. Other (please specify)</li> </ul> <p>Is this process complete or ongoing?</p>
Lower house	<ul style="list-style-type: none"> <li>b. Rijkswet tot goedkeuring van het Verdrag van Lissabon (Stb. 2008 – 301): It also specifies powers of Parliament in relation to government regarding the use of a parliamentary reserve.</li> <li>c. Parliamentary Standing Orders</li> </ul>
Upper house	<ul style="list-style-type: none"> <li>b) Ibid.</li> <li>d) Internal decision to adopt a new working procedure on EU affairs as of October 2009 (MEMO: EUROPA – DE NIEUWE WERKWIJZE)</li> </ul>
3-2	What exactly are the rules (i.e. parliamentary bodies involved, procedure, regional parliament's involvement, cooperation in bicameral systems) for...
3.2 i	The "Political Dialogue" with the Commission
Lower house	<p>In general, the relevant sectoral committee is responsible for the pre-selection of issues in its area of responsibility on the basis of the Commission Work Programme. It scrutinizes the relevant EU documents and formulates a draft (reasoned) opinion, which is then adopted in the plenary.</p> <p>Cooperation with the other chamber is not mandatory and no formal mechanisms are in place, but in practice the two chambers often cooperate through informal channels and adopt joint (reasoned) opinions.</p>
Upper house	Ibid.
3.2 ii	The Early Warning Mechanism (EWM)
Lower house	See 3.2

<sup>6</sup> <http://www.eerstekamer.nl/9370000/1/j9vvhwtnzpbzcc/vhtjlycuepzc>

Upper house	See 3.2
3.2 iii	The "Passarelle clause"
Lower house	No special procedure
Upper house	No special procedure
3.2 iv	The action of annulment before ECJ on breach with the subsidiarity principle (What quota of MPs is needed to enforce the action of annulment?)
Lower house	No formal rules have been adopted in this regard. As a result, it is unclear whether a request by the parliament would be binding on the government, whether it would have to come from both chambers or if a request by one chamber would be enough, if such a request would require a majority or what number of MPs would have to support such a request etc. <sup>7</sup>
Upper house	See above.
3.2 v	Accession of new member states to the EU
Lower house	No special procedure
Upper house	No special procedure
3-3	How actively does the parliament engage in the political dialogue and "early warning mechanism" with the Commission?
Lower house	The Tweede Kamer issued 2 reasoned opinions and one opinion in 2010 and four reasoned opinions in 2011. However, one of the reasoned opinions in 2010 was adopted late, after the 8 week deadline.
Upper house	The Eerste Kamer issued three opinions and two reasoned opinions in 2010 and four opinions and three reasoned opinions in 2011.
3-4	Has parliament ever threatened to bring a legislative act to the ECJ because of subsidiarity concerns?
Lower house	No
Upper house	No.
3-5	If applicable to your member state, how does parliament proceed on the ratification of: a. Treaty Establishing the European Stability Mechanism, signed 2 Feb 2012 b. Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, signed 2 March 2012
Lower house	a) The Treaty Establishing the European Stability Mechanism was ratified by the Tweede Kamer on 24 May 2012 with 100 votes in favour (47 opposed). b) The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union was adopted on 26 maart 2013 with the votes of the SGP, CDA, ChristenUnie, VVD, 50PLUS, D66 and PvdA.

<sup>7</sup> Dutch Association for European Law (2010). The Netherlands: The Role of National Parliaments in the European Union. In G.C. Rodriguez Iglesias and L.Ortiz Blanco (eds.), *The Role of National Parliaments in the European Union*, Madrid: Servicio de Publicaciones de la Facultad de Derecho Universidad Complutense, pp. 515-6.

Upper house	<ul style="list-style-type: none"> <li>a) In the Eerste Kamer, it was adopted on 3 July 2012 with 50 votes in favour and 23 against.</li> <li>b) The ratification procedure in the Eerste Kamer was ongoing at the time of writing (April 2013). At this point in time, the finance committee was examining the Treaty.</li> </ul>
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